

## REPORTS ANALYSIS REFERRAL

DATE: November 13, 2003

ANALYST: Camilla Reminsky

I. COMMITTEE: Cynthia McKinney for Congress  
C00256354  
Elyria Mackie, Treasurer  
PO Box 371125  
Decatur, GA 30037

II. RELEVANT STATUTE: 2 U.S.C 441a  
11 CFR 110.1(b), 110.2(b)

III. BACKGROUND:

Receipt of Excessive Contributions

Cynthia McKinney for Congress ("the Committee") received excessive contributions from eighty-four (84) individuals, thirteen (13) non-party multi-candidate political committees, and two (2) candidate committees totaling \$106,425. Attachment #2 provides a complete listing of the contributions in question.

A total of \$67,925 of the excessive contributions came from eighty (80) individuals, \$27,500 of the excessive contributions came from thirteen (13) non-party multi-candidate political committees, and \$11,000 of the excessive contributions came from two (2) candidate committees. A total of \$43,200 was designated to the 2002 Primary Election, in which the candidate participated. A total of \$63,225 was designated to the 2002 General Election, in which the candidate did not participate. Since the candidate lost the 2002 Primary Election and was not participating in the 2002 General Election, the general election contributions became excessive. The Committee was required to refund or redesignate these 2002 General Election contributions within 60 days of the 2002 Primary Election date of August 20, 2002. However, the contributions in question were neither refunded nor redesignated.

On October 16, 2002, the Committee filed a 2002 October Quarterly Report (Microfilm #22992246097) that failed to disclose the refund or redesignation of \$168,943.78 in contributions accepted for the 2002 General Election for the entire cycle to date. This included \$113,768.78 in general election contributions accepted during the October Quarterly reporting period.

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On January 31, 2003, the Committee filed a 2002 Year-End Report, (Microfilm #23990308286) which disclosed one (1) contribution of \$1,000 from an individual designated to the Primary Election (year of election not provided).

On February 4, 2003, a Request for Additional Information (RFAI) referencing the 2002 October Quarterly Report was sent by RAD to the Committee (Microfilm #23037972640). The RFAI noted the Committee's receipt of excessive contributions for the primary election and requested that the committee amend its report to reflect any reattributions and redesignations received within 60 days after receipt of the contributions and refund any remaining excessive amounts. The RFAI also requested that the Committee refund all of the general election contributions since the candidate would not be participating in that election. On February 27, 2003, a Second Notice (Microfilm #23038000629) referencing the aforementioned report was sent by RAD to the Committee stating their failure to respond to the initial RFAI.

On February 15, 2003, the Committee filed an amendment to the 2002 12-Day Pre-Primary Report (Microfilm #23990405127), in which the election year designation for all receipts, transfers out and refunds from the original report were changed from 2002 to 2004. No explanation was provided as to why the election year designations were changed. They were not reported as redesignations and no photocopies of redesignation letters were included. Contributors receiving refunds for the 2004 election year had no 2004 contributions reported. Also, the two (2) committee contributions with 2004 designations (AFL/CIO and Intl Union of Operating Engrs) were reported as 2002 contributions by the contributing committees. Therefore, the contributions and refunds designated for the 2004 elections have been included as being designated for the 2002 elections.

On March 19, 2003, the Committee filed an amendment to the 2002 October Quarterly Report (Microfilm #23990558265). The amendment changed the election designation for two-hundred and one (201) contributions totaling \$101,668.78 from the 2002 General Election to the 2002 Primary Election. A total of \$5,800 in contributions remained designated to the 2002 General Election. Five (5) contributions totaling \$3,400 were reported as designated to the 2002 General Election on the original 2002 October Quarterly Report, but were left out of this amendment. No explanation was provided with this amendment as to why these changes occurred. This amendment left a total of \$63,225 designated to the General Election, and increased the amount of excessive contributions designated to the Primary Election to \$42,200.<sup>1</sup>

On March 24, 2003, the Commission received a letter from the Committee (dated March 17, 2003) stating that they had refunded thirty-nine (39) primary and general election excessive contributions totaling \$31,180. Photocopies of the refund checks were included. The letter also stated that the Committee had corrected thirty-two (32)

<sup>1</sup> The following contribution had been listed as a memo entry on the original 2002 October Quarterly Report as a redesignation to the 2002 General Election, but did not appear on the Amended October Quarterly Report, dated March 19, 2003 Laura A. Carroll, \$1,000 on August 15, 2002

contributions previously reported as designated to the 2002 General Election that should have been designated to the 2002 Primary Election. The letter does not identify which contributions had been entered in error. (Microfilm #23038021251).

On March 30, 2003, the Committee filed an amendment to the 2002 Year-End Report (Microfilm #23990623309) that disclosed the one (1) contribution of \$1,000 from an individual as now designated to the 2002 Primary Election. The excessive contributions designated to the 2002 Primary Election increased to \$43,200.

On March 31, 2003, a RAD Analyst called Mr. Elyria Mackie, the Committee's treasurer. The Analyst informed Mr. Mackie that the amendments the Committee sent did not address all of the excessive contributions. Mr. Mackie told the Analyst that the Committee is currently pursuing a lawsuit debating the validity of the results of the 2002 Primary Election, and as such does not consider the primary election decided. Therefore, the Committee debates whether they should have to refund the general election contributions. The Analyst advised Mr. Mackie to write to the Commission and ask for an Advisory Opinion on the matter. Mr. Mackie said that he would look into doing so, and would inform the Analyst of his decision on Wednesday (April 2, 2003). The Analyst did not receive another call from Mr. Mackie. (Attachment #3)

On April 15, 2003, the Committee filed a 2003 April Quarterly Report (Microfilm #23990757886) that did not include refunds on Schedule B for which the Committee had previously provided copies of the checks (see correspondence dated March 24, 2003). The Committee instead listed on Schedule D debts of \$32,080, including the \$31,180 in refunds previously reported. Included in the debts was \$5,180 in refunds to fourteen (14) individuals for contributions that did not appear excessive based on what the Committee had previously disclosed.

On April 17, 2003, a RAD Analyst called Mr. Elyria Mackie to inquire as to why copies of refund checks had been sent to the Commission, but were not reported as disbursements on the Committee's 2003 April Quarterly Report. Mr. Mackie told the Analyst that the checks had been written and signed, but the Committee did not send them to the contributors because of the Committee's cash situation and on the advice of the Committee's attorney. The Analyst also asked Mr. Mackie if the refunds for excessive 2002 Primary Election contributions had been sent. Mr. Mackie said that he had no knowledge as to which refund checks had been sent, and which ones had not, as this had occurred during tax season. He said that he would look over the reports over the weekend, and would phone the Analyst on Monday, April 21 to let the Analyst know what he had discovered. Mr. Mackie did not call the Analyst back. (Attachment #4)

On April 22, 2003, an RFAI was sent to the Committee by RAD referencing the Amended 2002 October Quarterly Report dated March 24, 2003 (Microfilm #23038060268). The RFAI requested that the Committee clarify the discrepancy between the 2002 October Quarterly Amendment, received March 24, 2003, which included

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copies of refund checks, and the lack of the disbursement of said refunds on the 2003 April Quarterly Report (Microfilm #23990757886). On May 15, 2003, a Second Notice referencing the aforementioned report was sent by RAD to the Committee stating their failure to respond to the initial RFAI (Microfilm #23038082567).

On April 22, 2003, a second RFAI (Microfilm #23038060271) was sent to the Committee by RAD referencing the Amended 2002 October Quarterly Report, dated March 19, 2003. This RFAI noted the Committee's receipt of additional excessive contributions totaling \$18,250 from nineteen (19) individuals and one (1) non-party multi-candidate political committee for the 2002 Primary Election, and requested that the Committee amend its report to reflect any reattributions and redesignations received within 60 days after receipt of the contributions and refund any remaining excessive amounts. On May 15, 2003, a Second Notice (Microfilm #23038070663) referencing the aforementioned report was sent by RAD to the Committee stating their failure to respond to the initial RFAI.

On June 13, 2003, an Informational Notice referencing the Amended 2002 Year-End Report (Microfilm #23038104107) was sent by RAD to the Committee, which noted the receipt of a 2002 Primary Election contribution after the 2002 Primary Election, with the Committee having no net debts outstanding. The notice requested that the Committee either amend its filing, if the contribution was recorded incorrectly, or refund the contribution.

On June 17, 2003, an RFAI referencing the 2002 12-Day Pre-Primary Report (Microfilm #23038104449) was sent by RAD to the Committee. The RFAI noted the Committee's incorrect reporting of redesignations for all transactions in the report, and requested that the Committee file an amendment to correct the error. On July 10, 2003, a Second Notice (Microfilm #23038124630) referencing the aforementioned report was sent by RAD to the Committee stating their failure to respond to the initial RFAI.

On June 19, 2003, the Committee's attorney, Ms. Dana Harrell, faxed the Analyst a letter detailing the legal issues being faced by the Committee. Ms. Harrell states that due to the lawsuit, the 2002 Primary Election cannot be considered a closed matter. The letter does not specifically address the excessive contributions (Attachment #5).

On June 23, 2003, the Analyst attempted to call Ms. Harrell, and left a message requesting a call back regarding the document recently faxed to the Analyst.

On June 25, 2003, Ms. Harrell called the Analyst and requested that the faxed document not be placed on the public record due to the legal matters discussed therein. She asked that it be taken as a response to the Analyst's letters, however. (Attachment #6).

On June 25, 2003, the Analyst called Dana Harrell back and informed Ms. Harrell that the letter faxed to the Commission did not adequately address the excessive

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contributions. Ms. Harrell stated that the excessive contributions would be addressed by the treasurer. (Attachment #7).

On July 16, 2003, a letter (Microfilm #23038134381) from Ms. Dana Harrell was received by the Commission. In the letter, she referred to a letter from Mr. Elyria Mackie, the Treasurer, which the Commission never received. She also referred to her own letter, received by the Commission via fax transmission on June 19, 2003. She asked that the Committee be able to set aside contributions and expenditures resulting from the legal issues being faced by the Committee so that these costs would not be considered contributions and expenditures under the Act.

On October 25, 2003, the Committee filed a 2003 October Quarterly Report (Microfilm #23992213871). The report disclosed eleven (11) refunds of contributions from individuals totaling \$10,999. The refunds were all dated July 24, 2003 and were reported as follows:

Mr. Javad Asgari	\$1,000	Primary
Mrs. Laura Carroll	\$1,000	2004 Primary
Mr. Marcus Carroll	\$1,000	Primary
Mr. Gerald Edwards	\$1,000	Primary
Mrs. Jada Edwards	\$1,000	Primary
Adnan Khan	\$1,000	Primary
Nasreen Khan	\$ 999	Primary
Ms. Aisha J. Morrell	\$1,000	Primary
Ali R. Nejad	\$1,000	Primary
Dr. Mahmoud A. Nimer	\$1,000	Primary
Mr. Laroy Williams	\$1,000	Primary

To date, no further communications have been received from the Committee regarding this matter.

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CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT	PARTY	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	IMAGE LOCATION
							TYPE OF FILER
MCKINNEY, CYNTHIA	HOUSE 04	DEMOCRATIC PARTY		GEORGIA	2004 ELECTION	ID# H2GA11016	
1. STATEMENT OF CANDIDATE							
2003 DISAVOWAL NOTICE					28OCT03	2	23FEC/823/2947
2. PRINCIPAL CAMPAIGN COMMITTEE							
CYNTHIA MCKINNEY FOR CONGRESS					ID #C00256354	HOUSE	
2003 REQUEST FOR ADDITIONAL INFORMATION					15JUL03	3	23FEC/813/3663
MISCELLANEOUS REPORT TO FEC					16JUL03	2	23FEC/813/4381
APRIL QUARTERLY			662	18,024	1JAN03 -31MAR03	26	23F99/075/7886
APRIL QUARTERLY - AMENDMENT			657	16,724	1JAN03 -31MAR03	23	23F99/216/4990
REQUEST FOR ADDITIONAL INFORMATION					1JAN03 -31MAR03	2	23FEC/820/1513
JULY QUARTERLY			206	5,225	1APR03 -30JUN03	22	23F99/141/4988
JULY QUARTERLY - AMENDMENT			206	5,227	1APR03 -30JUN03	23	23F99/216/6825
REQUEST FOR ADDITIONAL INFORMATION					1APR03 -30JUN03	2	23FEC/820/1511
OCTOBER QUARTERLY			0	25,304	1JUL03 -30SEP03	27	23F99/221/3871
TOTAL			863	47,255		130	TOTAL PAGES
3. AUTHORIZED COMMITTEES							
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN							
THE FOLLOWING INFORMATION IS AS REPORTED BY PARTY AND NON-PARTY COMMITTEES OR OTHER FILERS OUTSIDE THE CAMPAIGN							
5. NON-PARTY AND OTHER COMMITTEES							
TRANSPORT WORKERS UNION POLITICAL CONTRIBUTIONS COMMITTEE			CONTRIBUTIONS TO	EXPENDITURES ON BEHALF OF			
TRANSPORT WORKERS UNION OF AMERICA				ID# C00008268	NON-PARTY QUALIFIED		
2003 MARCH MONTHLY			1,000-	10FEB03	23F99/057/280		
6. PARTY COMMITTEE TRANSACTIONS							
7. COMMUNICATION COST TRANSACTIONS			CONTRIBUTIONS TO	EXPENDITURES ON BEHALF OF			
			COMMUNICATION COSTS ON BEHALF OF	COMMUNICATION COSTS AGAINST			
8. DELEGATE COMMITTEE REPORTS							
			RECEIPTS	DISBURSEMENTS			
9. UNAUTHORIZED SINGLE CANDIDATE COMMITTEE REPORTS							

All reports reviewed.

Cash on Hand as of 9/30/2003: -\$29,332

Debts and Obligations owed to the Committee: \$0.00

Debts and Obligations owed by the Committee: \$32,080

CANDIDATE/COMMITTEE/DOCUMENT

OFFICE SOUGHT

PARTY

RECEIPTS

DISBURSEMENTS

COVERAGE DATES

# OF  
PAGES  
LOCATION  
TYPE OF FILER

MCKINNEY, CYNTHIA A

HOUSE 04 DEMOCRATIC PARTY

GEORGIA

2004 ELECTION ID# H2GA11016

## 1. STATEMENT OF CANDIDATE

2001 DISAVOWAL NOTICE

25SEP01

4 21FEC/731/4508

2002 STATEMENT OF CANDIDATE

11NOV02

2 22FEC/786/3498

## 2. PRINCIPAL CAMPAIGN COMMITTEE

CYNTHIA MCKINNEY FOR CONGRESS

ID #C00256354

HOUSE

2001 MID-YEAR REPORT

73,031

52,074

1JAN01 -30JUN01

57 21F99/037/0569

MID-YEAR REPORT - AMENDMENT

73,031

52,074

1JAN01 -30JUN01

57 21F99/041/6228

MID-YEAR REPORT - AMENDMENT

73,031

52,145

1JAN01 -30JUN01

57 22F99/011/0870

YEAR-END

113,440

46,203

1JUL01 -31DEC01

88 22F99/011/1681

YEAR-END - AMENDMENT

-

-

1JUL01 -31DEC01

5 22FEC/760/4360

YEAR-END - AMENDMENT

115,940

46,203

1JUL01 -31DEC01

89 22F99/255/3726

REQUEST FOR ADDITIONAL INFORMATION

1JUL01 -31DEC01

4 22FEC/757/0952

REQUEST FOR ADDITIONAL INFORMATION 2ND

1JUL01 -31DEC01

5 22FEC/759/1461

2002 48 HOUR CONTRIBUTION NOTICE

2AUG02

3 22F99/151/3107

48 HOUR CONTRIBUTION NOTICE

7AUG02

2 22F99/152/7019

48 HOUR CONTRIBUTION NOTICE

12AUG02

2 22F99/155/8515

48 HOUR CONTRIBUTION NOTICE

14AUG02

3 22F99/156/7744

48 HOUR CONTRIBUTION NOTICE

15AUG02

4 22F99/159/8170

48 HOUR CONTRIBUTION NOTICE

18AUG02

5 22F99/160/5545

APRIL QUARTERLY

62,218

39,677

1JAN02 -31MAR02

67 22F99/070/2633

APRIL QUARTERLY - AMENDMENT

62,368

39,757

1JAN02 -31MAR02

67 22F99/137/9704

APRIL QUARTERLY - AMENDMENT

62,718

39,757

1JAN02 -31MAR02

68 22F99/255/4282

REQUEST FOR ADDITIONAL INFORMATION

1JAN02 -31MAR02

2 22FEC/774/0312

REQUEST FOR ADDITIONAL INFORMATION 2ND

1JAN02 -31MAR02

3 22FEC/778/3697

JULY QUARTERLY

262,652

77,845

1APR02 -30JUN02

186 22F99/141/2510

JULY QUARTERLY - AMENDMENT

269,047

77,895

1APR02 -30JUN02

190 22F99/255/4350

PRE-PRIMARY

78,604

400,641

1JUL02 -31JUL02

61 22F99/153/8949

PRE-PRIMARY - AMENDMENT

129,938

402,049

1JUL02 -31JUL02

88 23F99/040/5127

REQUEST FOR ADDITIONAL INFORMATION

1JUL02 -31JUL02

4 22FEC/773/1478

REQUEST FOR ADDITIONAL INFORMATION 2ND

1JUL02 -31JUL02

5 22FEC/775/4909

REQUEST FOR ADDITIONAL INFORMATION

1JUL02 -31JUL02

2 23FEC/797/2671

REQUEST FOR ADDITIONAL INFORMATION

1JUL02 -31JUL02

3 23FEC/810/4449

REQUEST FOR ADDITIONAL INFORMATION 2ND

1JUL02 -31JUL02

4 23FEC/812/4630

OCTOBER QUARTERLY

279,104

325,772

1AUG02 -30SEP02

191 22F99/224/6097

OCTOBER QUARTERLY - AMENDMENT

300,719

409,328

1AUG02 -30SEP02

223 23F99/055/8265

OCTOBER QUARTERLY - AMENDMENT

-

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1AUG02 -30SEP02

18 23FEC/802/1251

REQUEST FOR ADDITIONAL INFORMATION

1AUG02 -30SEP02

8 23FEC/797/2640

REQUEST FOR ADDITIONAL INFORMATION 2ND

1AUG02 -30SEP02

9 23FEC/800/0629

REQUEST FOR ADDITIONAL INFORMATION

1AUG02 -30SEP02

5 23FEC/803/3012

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## FEDERAL ELECTION COMMISSION

DATE 11/13/2003

2001-2002

CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

PAGE 2

CANDIDATE/COMMITTEE/DOCUMENT

OFFICE SOUGHT

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RECEIPTS

DISBURSEMENTS

COVERAGE DATES

# OF  
PAGES  
IMAGE  
LOCATION  
TYPE OF FILER

REQUEST FOR ADDITIONAL INFORMATION

1AUG02 -30SEP02

3 23FEC/806/0268

REQUEST FOR ADDITIONAL INFORMATION

1AUG02 -30SEP02

7 23FEC/806/0271

REQUEST FOR ADDITIONAL INFORMATION 2ND

1AUG02 -30SEP02

6 23FEC/807/0663

REQUEST FOR ADDITIONAL INFORMATION 2ND

1AUG02 -30SEP02

7 23FEC/808/2567

REQUEST FOR ADDITIONAL INFORMATION 2ND

1AUG02 -30SEP02

4 23FEC/808/2574

YEAR-END

2,228

51,269

10CT02 -31DEC02

25 23F99/030/8286

YEAR-END - AMENDMENT

2,228

51,134

10CT02 -31DEC02

24 23F99/062/3309

REQUEST FOR ADDITIONAL INFORMATION

10CT02 -31DEC02

3 23FEC/799/2648

REQUEST FOR ADDITIONAL INFORMATION 2ND

10CT02 -31DEC02

4 23FEC/801/2080

1'ST LETTER INFORMATIONAL NOTICE

10CT02 -31DEC02

3 23FEC/810/4107

TOTAL

953,621

1,078,511

1671 TOTAL PAGES

3. AUTHORIZED COMMITTEES

4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

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			Election			Excessive Amount	
Contributor	Date	Amount	Designation	Note	Subsequent Action	Primary	General
Individuals							
Abdelilah, Nina	10/12/01	\$1,250	2002 P		Redesignated \$250 to General		\$250
Abdur-Rahim, Julius	06/27/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Abdur-Rahim, William	06/26/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Adaya, Amina	08/05/02	\$1,000	2002 P				
Adaya, Amina	08/12/02	\$1,000	2002 P			\$1,000	
Ahmed, A m	08/13/02	\$1,000	2002 P				
Ahmed, A M	08/15/02	\$1,000	2002 P			\$1,000	
Akkad, Moustapha	06/08/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Akkad, Moustapha	08/18/02	\$500	2002 P			\$500	
Alamoudi, Abdurahman	09/11/01	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Al-Hassan, Ahmad	08/01/02	\$700	2002 G				\$700
Al-Hassan, Ahmad	08/01/02	\$1,000	2002 P				
Ali, Hyder	10/25/01	\$750	2002 P				
Ali, Hyder	10/25/01	\$250	2002 P				
Ali, Hyder	06/24/02	\$500	2002 P		Redesignated to General		\$500
Anwar, Rehan	05/07/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Asgari, Ameneh	06/26/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Asgari, Javad	06/26/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Asgari, Javad	07/24/03	-\$1,000	2002 P	1			
Barakat, Adil	04/05/01	\$1,000	2002 P				
Barakat, Adil	03/07/02	\$100	2002 P		Redesignated \$100 to General		\$100
Blythe, Jr., Richard	08/16/02	\$1,500	2002 P			\$500	
Carroll, Laura A	08/15/02	\$2,000	2002 P			\$1,000	
Carroll, Laura A	07/24/03	-\$1,000	2004P	1			
Carroll, Marcus E	08/15/02	\$1,000	2002 P				
Carroll, Marcus E	08/15/02	\$2,000	2002 P			\$2,000	
Carroll, Marcus E	07/24/03	-\$1,000	2002 P	1			
Chaudhary, Mohammad	05/17/02	\$100	2002 P				
Chaudhary, Mohammad	06/29/02	\$1,000	2002 P		Redesignated \$100 to General		\$100
Chehab, Hazem H	06/05/02	\$1,000	2002 P				
Chehab, Hazem H	08/12/02	\$1,000	2002 P			\$1,000	
Chehab, Hazem H	08/17/02	\$1,000	2002 P			\$1,000	
Daoud, Nouraldine	06/07/02	\$250	2002 P				
Daoud, Nouraldine	08/15/02	\$1,000	2002 P			\$250	

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<u>Contributor</u>	<u>Date</u>	<u>Amount</u>	<u>Election</u>		<u>Subsequent Action</u>	<u>Excessive Amount</u>	
			<u>Designation</u>	<u>Note</u>		<u>Primary</u>	<u>General</u>
Desouki, Mohammed	01/12/02	\$250	2002 G			\$250	
Edwards, Gerald	08/15/02	\$1,000	2002 P				
Edwards, Gerald	08/15/02	\$1,000	2002 P			\$1,000	
Edwards, Gerald	07/24/03	-\$1,000	2002 P	1			
Edwards, Jada	08/15/02	\$1,000	2002 P				
Edwards, Jada	08/15/02	\$2,000	2002 P			\$2,000	
Edwards, Jada	07/24/03	-\$1,000	2002 P	1			
El-Ahmad, Khaled	08/16/02	\$1,100	2002 P			\$100	
El-Batool, Nafees	06/08/02	\$2,000	2002 P		Redes \$1000 to General (6/26/02)		\$1,000
Essayli, Hassan	03/13/01	\$1,000	2002 P		Redesignated \$500 to General		\$500
Fadel, H E	02/13/02	\$1,000	2002 P		Redesignated to General		\$1,000
Fareed, Atif	09/11/01	\$1,000	2002 P				
Fareed, Atif	08/01/02	\$500	2002 P			\$500	
Faroqi, Musharaf A	06/29/02	\$1,000	2002 P				
Faroqi, Musharaf A	08/11/02	\$250	2002 P			\$250	
Ghosheh, Ribhi	06/08/02	\$1,000	2002 P				
Ghosheh, Ribhi	06/08/02	\$500	2002 P		Redesignated to General		\$500
Hage, George	10/25/01	\$1,000	2002 P				
Hage, George	10/25/01	\$1,000	2002 P		Redesignated to General		\$1,000
Hamoui, M Nazir	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Hamza, M H	08/01/02	\$1,000	2002 P				
Hamza, M h	08/07/02	\$100	2002 P			\$100	
Haq, Mahmud	04/18/02	\$2,000	2002 P		Redes \$1000 to General (06/12/02)		\$1,000
Haque, Tarique	03/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Hassan, Aliya G	05/09/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Herman, Edward S	08/08/02	\$1,000	2002 P				
Herman, Edward S	08/15/02	\$1,000	2002 P			\$1,000	
Hosseinnejad, M	06/26/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Hussain, Iftekhar	04/18/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Jadallah, Kathleen Ann	08/13/02	\$1,000	2002 P				
Jadallah, Kathleen Ann	08/17/02	\$1,000	2002 P			\$1,000	
James, Rodney N	08/13/02	\$1,500	2002 P			\$500	

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<u>Contributor</u>	<u>Date</u>	<u>Amount</u>	<u>Election</u>		<u>Subsequent Action</u>	<u>Excessive Amount</u>	
			<u>Designation</u>	<u>Note</u>		<u>Primary</u>	<u>General</u>
Jandali, Imad N	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Jennings, Christy S	08/13/02	\$1,500	2002 P			\$500	
Kalla, Yunus	05/24/02	\$500	2002 G				\$500
Khan, Adnan	10/25/01	\$1,000	2002 P				
Khan, Adnan	06/10/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Khan, Adnan	07/15/02	-\$1,000	2004 P	2			
Khan, Adnan	07/24/03	-\$1,000	2002 P	1			
Khan, Javed	10/25/01	\$500	2002 P				
Khan, Javed	10/25/01	\$500	2002 P				
Khan, Javed	06/24/02	\$1,000	2002 P		Redesignated to General		\$1,000
Khan, Nasreen	05/06/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Khan, Nasreen	06/08/02	\$1,000	2002 P				
Khan, Nasreen	07/15/02	-\$1,000	2004 P	2			
Khan, Nasreen	07/24/03	-\$1,000	2002 P	1			
Khan, Salahuddin	05/06/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Kudaimi, Muhammed Mazen	08/15/02	\$1,000	2002 P				
Kudaimi, Muhammed Mazen	08/15/02	\$100	2002 G				\$100
Laymoun, Samir	10/25/01	\$1,000	2002 P				
Laymoun, Samir	06/27/02	\$500	2002 P		Redesignated to General		\$500
Levett, Greg	11/13/02	\$1,000	2002 P		(Made after Primary)	\$1,000	
Maxie, Tremayne	07/02/02	\$1,025	2004 P	3	Redesignated \$25 to 2004 General		\$25
Mohiuddin, Razi	10/25/01	\$1,000	2002 P				
Mohiuddin, Razi	06/24/02	\$1,000	2002 P		Redesignated to General		\$1,000
Mohiuddin, Tahseen	10/25/01	\$1,000	2002 P				
Mohiuddin, Tahseen	06/24/02	\$1,000	2002 P		Redesignated to General		\$1,000
Moore, Sabrina D	08/14/02	\$1,250	2002 P		Redesignated \$250 to General		\$250
Morrell, Aisha J	08/15/02	\$1,000	2002 P				
Morrell, Aisha J	08/15/02	\$1,000	2002 P			\$1,000	
Morrell, Aisha J	07/24/03	-\$1,000	2002 P	1			
Nejad, Ali	06/26/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Nejad, Ali	07/24/03	-\$1,000	2002 P	1			
Nimer, Mahmoud A	06/29/02	\$3,000	2002 P		Redesignated \$1000 to General		\$1,000
Nimer, Mahmoud A (Refund)	07/15/02	-\$1,000	2004 P	2			
Nimer, Mahmoud A	07/24/03	-\$1,000	2002 P	1			
Reheem, Linda E	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000

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Contributor	Date	Amount	Election Designation	Note	Subsequent Action	Excessive Amount	
						Primary	General
Reheem, M Allam	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Ridgeway, Nathan C	08/09/02	\$1,000	2002 P				
Ridgeway, Nathan	08/12/02	\$1,000	2002 P			\$1,000	
Rifai, A O	08/16/02	\$2,000	2002 P			\$1,000	
Russell, Herman	06/26/02	\$1,000	2002 P		Redesignated to General		\$1,000
Sabadia, Rahim	06/04/02	\$2,000	2002 P		Redes \$1000 to General (6/26/02)		\$1,000
Sahloul, Mohammed	06/02/02	\$1,000	2002 P				
Sahloul, Mohammed	08/16/02	\$1,000	2002 P			\$1,000	
Salahat, Ramsey A	05/16/02	\$200	2002 P				
Salahat, Ramsey A	05/17/02	\$1,000	2002 P		Redes \$200 to General (6/01/02)		\$200
Saleh, M I	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Sayeed, Javaid	05/02/01	\$500	2002 P				
Sayeed, Javaid	05/02/01	\$500	2002 P		Redesignated to General (5/17/02)		\$500
Shakfeh, Samar	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Shakfeh, Samir	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Slyker, Pauline A	05/03/02	\$2,000	2002 P		Redes \$1000 to General (6/23/02)		\$1,000
Soliman, Fawzi	06/29/02	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Sullivan, James W	05/09/02	\$1,000	2002 P				
Sullivan, James W	05/09/02	\$1,000	2002 G				\$1,000
Totonji, Mohammad A	09/11/01	\$1,000	2002 P				
Totonji, Mohammad A	08/01/02	\$1,000	2002 P			\$1,000	
Toubia, Souhail	10/25/01	\$500	2002 P				
Toubia, Souhail	06/08/02	\$1,000	2002 P		Redesignated to General		\$1,000
Williams, Laroy	08/15/02	\$1,000	2002 P				
Williams, Laroy	08/15/02	\$2,000	2002 P			\$2,000	
Williams, Laroy	07/24/03	-\$1,000	2002 P	1			
Yasin, Emad	10/12/01	\$2,000	2002 P		Redesignated \$1000 to General		\$1,000
Yasin, Maura	10/25/01	\$1,000	2002 P		Redesignated to General		\$1,000
Youness, Abdelhamid	03/20/01	\$250	2002 P				

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Contributor	Date	Amount	Election		Subsequent Action	Excessive Amount	
			Designation	Note		Primary	General
Youness, Abdelhamid	12/12/01	\$250	2002 P				
Youness, Abdelhamid	03/07/02	\$500	2002 P				
Youness, Abdelhamid Y	08/04/02	\$250	2002 P			\$250	
Youness, Abdelhamid Y	08/14/02	\$1,000	2002 P			\$1,000	
Zaman, Qamar	05/02/01	\$500	2002 P				
Zaman, Qamar	02/13/02	\$500	2002 P				
Zaman, Qamar	08/12/02	\$500	2002 P			\$500	
						\$25,200	\$42,725
							\$67,925
<b>Non-Party Multi-Candidate Committees</b>							
AFL/CIO Ct	07/25/02	\$2,500	2004 P	3,4			
AFL/CIO Ct	07/25/02	\$5,000	2004 G	3,4			\$5,000
American Society of Anesthesiologists	04/05/01	\$2,000	2002 P				
American Society of Anesthesiologists	07/03/01	\$1,000	2002 P	5	Refunded (9/27/02)		
American Society of Anesthesiologists	03/29/02	\$1,000	2002 G				\$1,000
Assoc of Trial Lawyers of America PAC	04/05/01	\$1,000	2002 P				
Assoc of Trial Lawyers of America PAC	07/03/01	\$1,000	2002 P				
Assoc of Trial Lawyers of America PAC	11/06/01	\$3,000	2002 P		Refunded \$1000 (9/27/02)		
Assoc of Trial Lawyers of America PAC	06/05/02	\$1,000	2002 G				\$1,000
Boilermakers-Blacksmith Legis Education	06/29/02	\$1,000	2002 G				\$1,000
Boilermakers-Blacksmith Legis Education (Refund)	09/27/02	-\$1,000	2002 P	6			
Cwa-cope Pcc	04/10/02	\$1,000	2002 P				
Cwa-cope Pcc	05/06/02	\$1,000	2002 P				
Cwa-cope Pcc	08/08/02	\$500	2002 P				
Cwa-cope Pcc	08/10/02	\$2,500	2002 P				
Cwa-cope Pcc	08/10/02	\$500	2002 P			\$500	
Intl Union of Operating Engrs	05/04/01	\$500	2002 P				
Intl Union of Operating Engrs	12/28/01	\$500	2002 P				
Intl Union of Operating Engrs	06/26/02	\$1,000	2002 P				
Intl Union of Operating Engrs	07/31/02	\$500	2004 G	4			\$500
Machinists Non-Partisan Politi	04/05/01	\$2,000	2002 P	7	Refunded (9/27/02)		
Machinists Non-Partisan Politi	07/27/01	\$3,000	2002 P	7	Refunded (9/27/02)		
Machinists Non-Partisan Politi	12/26/01	\$5,000	2002 G				\$5,000

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Contributor	Date	Amount	Election Designation	Note	Subsequent Action	Excessive Amount	
						Primary	General
Mr Douglas H Dority-United Food and Comm Workers	08/15/02	\$5,000	2002 G				\$5,000
Natl Education Assoc PAC	04/10/02	\$1,000	2002 P				
Natl Education Assoc PAC	06/25/02	\$1,000	2002 P				
Natl Education Assoc PAC	06/25/02	\$1,000	2002 P				
Mr Robert F Chase-Natl Education Assn PAC	08/01/02	\$3,000	2002 P			\$1,000	
PAC to the Future	09/11/01	\$5,000	2002 P				
PAC to the Future	08/10/02	\$5,000	2002 P			\$5,000	
Transport Workers Union	05/16/01	\$1,000	2002 P				
Transport Workers Union	08/31/01	\$1,000	2002 P				
Transport Workers Union	08/13/02	\$1,000	2002 P				
Transport Workers Union	08/13/02	\$2,500	2002 P			\$500	
UNITE Campaign Committee	08/24/01	\$500	2002 P				
UNITE Campaign Committee	03/29/02	\$1,000	2002 G				\$1,000
UNITE Campaign Committee	06/29/02	\$1,000	2002 P		Refunded (9/27/02)		
Wachovia Ga Emp Pac #1	06/21/02	\$1,000	2002 G				\$1,000
Wachovia Ga Emp Pac #1	09/27/02	-\$1,000	2002 P	7			
						\$7,000	\$20,500
							\$27,500
<b>Candidate Committees</b>							
Kilpatrick for U S Congress	06/29/02	\$1,000	2002 P				
Kilpatrick for U S Congress	08/12/02	\$5,000	2002 P			\$5,000	
Friends of Congresswoman Kilpatrick	08/13/02	\$5,000	2002 P			\$5,000	
Pastor for Arizona	08/07/02	\$1,000	2002 P				
Pastor for Arizona 2002	08/12/02	\$1,000	2002 P			\$1,000	
						\$11,000	
1 These refunds were made more than 60 days after receipt of the contribution. Therefore, these refunds have not been subtracted from the totals of excessive contributions.							
							\$67,925
2 No 2004 Primary contributions reported for this individual.							\$27,500
3 These contributions were originally disclosed on the 2002 12 Day Pre Primary report as contributions for the 2002 election cycle, but were later disclosed for the 2004 election cycle in an amendment filed February 15, 2003.							\$11,000
4 Reported as 2002 by contributor.							\$106,425
5 Not excessive for 2002 Primary.							
6 No 2002 Primary contributions reported for this committee.						\$25,200	\$42,725
7 Refund reported as 2002 General by contributor.						\$7,000	\$20,500
						\$11,000	
						\$43,200	\$63,225

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**Dana Harrell, P.C.**

ATTORNEY AT LAW

1745 MARTIN LUTHER KING JR. DRIVE  
ATLANTA, GEORGIA 30314

RECEIVED Attachment 5 Page 1  
FEDERAL ELECTION  
COMMISSION  
REPORTS ANALYSIS  
DIVISION  
(404) 522-1400  
FAX: (404) 755-2327

2003 JUN 19 P 2:52

**FACSIMILE TRANSMISSION COVER SHEET**

**TO:** CAMILLA REMINSKY

**SENT BY:** DANA HARRELL

**FAX NO.:** 202-219-3496

**DATE:** 6-19-03

**NUMBER OF PAGES INCLUDING COVER SHEET:** 19

Return Facsimile Number: (404) 755-2327

**COMMENTS:** \_\_\_\_\_  
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**IF YOU HAVE ANY QUESTIONS OR PROBLEMS RECEIVING THIS TRANSMISSION, PLEASE CALL (404) 522-1400 IMMEDIATELY. THANK YOU!**

A COMMITMENT TO SERVE BY GOING ABOVE AND BEYOND

25044123076

# Dana Harrell, P.C.

ATTORNEY AT LAW

1745 MARTIN LUTHER KING JR. DRIVE  
ATLANTA, GEORGIA 30314

Attachment 5 Page 2  
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REPORTS ANALYSIS  
DIVISION

OFF: (404) 522-1400  
FAX: (404) 533-2327 2: 52

June 18, 2003

VIA FACSIMILE (202) 219-3496

Ms. Camilla Reminsky  
Federal Election Commission  
Campaign Finance Analyst  
Reports Analysis Division  
Washington, DC 20463

Re: Osburn v. Georgia, et al  
CASE NO. 1:02CV2721-CAP

Dear Ms. Reminsky:

This letter is to inform you of the legal issues pertaining to the Democratic General Primary Election held on August 20, 2002 and the General Election held on November 5, 2002 involving Cynthia McKinney for Congress.

Osburn v. Georgia was filed in US District Court in Atlanta, Georgia prior to the November General election and is currently under consideration. It alleges illegal behavior that violates the constitutional rights of the plaintiffs who are registered Democratic voters in the 4th Congressional District of Georgia. In addition, it alleges that the 1965 Voting Rights Act has been violated. As you may know, constitutional and Voting Rights Act violations require immediate remedy. Osburn seeks as remedy that both the General Primary Election of August 20, 2002 and the General Election of November 5, 2002 be considered void and run again.

While granting Plaintiffs' motion to amend the complaint, the Judge in Osburn wrote "the court finds that the rights of voters and the interest of the public in the administration of the democratic process are interests of the highest order in our republic." Osburn could very well mean that the August 20, 2002 Democratic Primary Election would be rerun and so, too the November 5, 2002 General Election.

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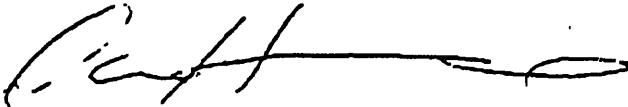


Federal Election Commission  
Page Two  
June 18, 2003

Consequently, until these issues have been fully settled by the Court, the 2002 elections cannot be considered a closed matter.

For your information I am enclosing a copy of the Amended Complaint.

Sincerely,



Dana Harrell  
Attorney for Cynthia McKinney for Congress

Enclosure

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RECEIVED IN CLERK'S OFFICE

JAN 08 2003

LUTHER D. [Signature]  
By: Deputy Clerk

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

E. RANDEL T. OSBURN,  
LINDA DUBOSE,  
BRENDA LOWE CLEMONS,  
DOROTHY PERRY, and  
WENDELL MUHAMMED,

Plaintiffs,

vs.

CASE NO. 1:02CV2721-CAP

STATE OF GEORGIA,  
SONNY PERDUE, Governor of Georgia,  
CATHY COX, Secretary of State of Georgia,  
DEKALB COUNTY BOARD OF ELECTIONS AND REGISTRATION,  
GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION,  
LINDA LATIMORE, DeKalb County Supervisor of Elections,  
LYNN LEDFORD, Gwinnett County Supervisor of Elections,  
and GEORGIA DEMOCRATIC PARTY,

Defendants.

---

**AMENDED COMPLAINT FOR EQUITABLE RELIEF  
UNDER THE VOTING RIGHTS ACT AND THE UNITED  
STATES CONSTITUTION**

**JURISDICTION AND VENUE**

1.

This is an action to enforce the Voting Rights Act of 1965, 42 U.S.C. § 1973, et seq. This action alleges that the crossover voting of Republicans in the August 2002 Democratic Primary in the Fourth Congressional District of Georgia impermissibly diluted, diminished, and interfered with the rights of African-American voters on account of race. This action also alleges that the maintenance of an open Democratic primary by the State of Georgia and malicious Republican

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crossover voting in the August 2002 Democratic Primary in the Fourth Congressional District of Georgia violated the association rights preserved under the First Amendment to the United States Constitution and guaranteed to the Plaintiffs through the Fourteenth and Fifteenth Amendments and in contravention of the rights protected by 42 U.S.C. § 1983. The complaint also alleges intentional discrimination by the Defendants against the Plaintiffs and other African-American voters in the Fourth Congressional District of Georgia on account of their race.

2.

This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1331, 1343, and 1367. This action for declaratory and injunctive relief is authorized by 28 U.S.C. § 2201 and 2202, and by Rules 57 and 65, Fed. R. Civ. P. Venue is proper in the Northern District of Georgia pursuant to 28 U.S.C. 1391(d).

### THE PARTIES

3.

Plaintiffs E. RANDEL T. OSBURN, LINDA DUBOSE, BRENDA LOWE CLEMONS, DOROTHY PERRY, and WENDELL MUHAMMED are African-American Democratic registered voters in the Fourth Congressional District of Georgia who voted in the August 2002 Democratic Party primary.

4.

Defendant STATE OF GEORGIA is one of the 50 United States of America and its laws require that the state's major political parties' candidates be chosen in open primaries. It is under the auspices and control of the State of Georgia that the Democratic Primary in the Fourth

Congressional District of Georgia is conducted. Defendant SONNY PERDUE is the Governor of Georgia as of January 13, 2003.

5.

Defendant CATHY COX is the Secretary of State of Georgia and is sued herein in her official capacity. Ms. Cox has the obligation under Georgia law of overseeing elections in the state and, consequently, in the Fourth Congressional District of Georgia. She also has the duty of consolidating the returns from the counties that comprise the Fourth Congressional District of Georgia and certifying election results. Complete relief cannot be accorded in this matter without the presence of Ms. Cox.

6.

Defendant LINDA LATIMORE is the DeKalb County Supervisor of Elections and is responsible for conducting elections in that county, one of two counties comprising the Fourth Congressional District of Georgia. Ms. Latimore is also responsible for registering voters in DeKalb County and keeping records of those registrations. Complete relief cannot be accorded in this matter without the presence of Ms. Latimore. The DEKALB COUNTY BOARD OF ELECTIONS AND REGISTRATION is the legal entity created by state law to conduct and oversee elections in DeKalb County, Georgia.

7.

Defendant LYNN LEDFORD is the Gwinnett County Supervisor of Elections and is responsible for conducting elections in that county, the other of the two counties comprising the Fourth Congressional District of Georgia. Ms. Ledford is also responsible for registering voters in Gwinnett County and keeping records of those registrations. Complete relief cannot be

accorded in this matter without the presence of Ms. Ledford. The GWINNETT COUNTY BOARD OF ELECTIONS AND REGISTRATION is the legal entity created by state law to conduct and oversee elections in Gwinnett County, Georgia.

8.

Defendant GEORGIA DEMOCRATIC PARTY is a political party based in Georgia. The nomination of candidates for the Georgia Democratic Party, including the Democratic candidate for the Fourth Congressional District of Georgia, is conducted for the Georgia Democratic Party under Georgia law by the State of Georgia.

FACTS COMMON TO ALL COUNTS

9.

On August 20, 2002, the State of Georgia conducted a primary election for the Democratic Party of Georgia in the Fourth Congressional District. Under Georgia law, no voter is registered by political party and all voters may vote in any political parties' primary regardless of personal political affiliation.

10.

The Fourth Congressional District, as of the 2000 Census, is majority African-American in terms of population and voting age population. It was also, at the time of the August 2002 Democratic primary, majority African-American in registered voters. At the time of the August 2002 Democratic primary, an overwhelming majority of African-American voters in the Fourth Congressional District were Democrats.

11.

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In the August 2002 Democratic Primary, two candidates faced each other for the Democratic Party nomination for the Fourth Congressional District: Cynthia McKinney and Denise Majette. McKinney won a majority of votes cast by Democratic voters. However, because of votes cast by Republican voters in the Democratic primary, Majette received a majority of votes cast in the primary and was certified by the Secretary of State as the nominee of the Georgia Democratic Party in the Fourth Congressional District. Majette was placed on the ballot for the November 2002 general election as the Democratic nominee in the Fourth Congressional District and won the general election.

12.

As of the 2002 election there were not enough Republican voters in the Fourth Congressional District to ensure the election of a Republican candidate at the general election. The crossover of Republican voters into the Democratic primary was orchestrated by the Republican Party of Georgia and the DeKalb Republican Party to ensure the nomination of a candidate whose views were more in tune with the philosophies of the Republican Party. Members of the Georgia Republican Party and the DeKalb Republican Party conceived and orchestrated a plan to run such a candidate in the Democratic Primary, funded that candidate, organized and encouraged the Republican voters in the Fourth District to vote for that candidate, Denise Majette.

#### COUNT I

#### VIOLATION OF PLAINTIFFS' RIGHTS UNDER THE FOURTEENTH AND FIFTEENTH AMENDMENTS

13.

-5-

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Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth herein.

14.

Georgia's adoption of the open primary was done with the intent of discriminating against African-American voters, which replicates the effect of the infamous and now outlawed "white primary."

15.

The use of the open primary in the Democratic Primary in the Fourth Congressional District resulted in the defeat of the Democratic candidate preferred by the overwhelming majority of African-American voters, who make up the overwhelming majority of Democratic voters in the Fourth Congressional District.

16.

The State of Georgia, DeKalb County Board of Elections And Registration, Gwinnett County Board of Elections and Registration, Cathy Cox, Linda Latimore and Lynn Ledford, acting under color of law, conducted the open Democratic Primary in the Fourth Congressional district which contravened Plaintiffs' rights under the Fourteenth and Fifteenth Amendments and guaranteed pursuant to 42 U.S.C. 1983.

17.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

18

Unless restrained by this court, the defendants will continue to violate the constitutional rights of the Plaintiffs to vote and to elect their nominees of choice, and the acts of defendants will continue to chill and deter the free exercise of that right to vote.

19.

Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their constitutional rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, policies, and practices.

20.

Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates the Plaintiffs' rights to Equal Protection under the Fourteenth Amendment and suffrage under the Fifteenth Amendment.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.

-7-



- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of Georgia conduct thereafter a special general election for Fourth Congressional District.
- G. An award of attorneys fees and costs, including expert witness expenses.
- H. All other relief that is appropriate.

## COUNT II

### VIOLATION OF PLAINTIFFS' RIGHTS UNDER THE FIRST AMENDMENT

#### 21.

Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth herein.

#### 22.

The First Amendment to the United States Constitution guarantees the Plaintiffs a right of association with other Democrats in the choice of nominees of the political party.

23.

By constructing a primary system in which all voters, regardless of personal political affiliation are permitted to vote in the Democratic Primary in the Fourth Congressional District, the State of Georgia has interfered with the right of Plaintiffs and other Democratic voters to chose the nominees of their political party.

24.

The result of the open primary system in the Fourth Congressional District is the nomination of a person as the Democratic Party candidate who was not the choice of the majority of the Democratic Party voters who voted in the August 2002 primary.

25.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

26.

Unless restrained by this court, the defendants will continue to violate the constitutional rights of the Plaintiffs to vote and to elect their nominees of choice, and the acts of defendants will continue to chill and deter the free exercise of that right to associate.

27.

Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their constitutional rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, policies, and practices.

28.

Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates the Plaintiffs' rights to associate under the First Amendment.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.
- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of

Georgia conduct thereafter a special general election for Fourth Congressional District.

G. An award of attorneys fees and costs, including expert witness expenses.

COUNT III

VIOLATION OF PLAINTIFFS' RIGHTS UNDER  
THE VOTING RIGHTS ACT

29.

Plaintiffs repeat and reallege the allegations of paragraphs 1 through 12 as if set forth herein.

30.

The State of Georgia's use of the open primary in the Fourth Congressional District is a voting procedure which results in the rights of the Plaintiffs, who are African-American Democratic voters and who make up the overwhelming majority of the Democratic Party voters in the Fourth Congressional District, to vote in the Democratic Party primary on account of race, in violation of the rights guaranteed by 42 U.S.C. § 1973(a).

31.

Because of the use of the open primary in the Fourth Congressional District, under the totality of circumstances, the nomination of Democratic candidates in the Fourth Congressional District is not equally open to participation by African-Americans in that African-Americans have less opportunity than other members of the electorate to participate in the political process and to nominate candidates of their choice.

32.

The effect of the open primary system in the Fourth Congressional District is the nomination of a person as the Democratic Party candidate who was not the choice of the majority of the Democratic Party voters, who are overwhelmingly African-American, who voted in the August 2002 primary.

33.

Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury as a result of defendants' acts, policies, and practices as set forth above.

34.

Unless restrained by this court, the defendants will continue to violate the rights guaranteed by Section 2 of the Voting Rights Act of the Plaintiffs to vote and to elect their nominees of choice.

35.

Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their statutory rights, and this suit for injunction and declaratory judgment is their only means of securing complete and adequate relief. No other remedy would offer Plaintiffs substantial and complete protection from continuation of defendants' unlawful acts, policies, and practices.

36.

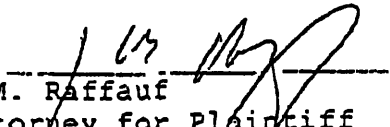
Plaintiffs have retained the undersigned attorneys and are obligated to pay their attorneys fees, as well as the associated costs of this litigation, including expert witness fees.

WHEREFORE, Plaintiffs respectfully request that the Court grant them the following relief:

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- A. Declare the use of the open primary in the Democratic Party Primary in the Fourth Congressional District violates Section 2 of the Voting Rights Act.
- B. Declare the results of the August 2002 Democratic Primary and the November 2002 General Election for the Fourth Congressional District to be void.
- C. Enjoin the use of the open primary in the Democratic Party primaries in the Fourth Congressional District of Georgia.
- D. Require the State of Georgia, Ms. Latimore, and Ms. Ledford register voters in the Fourth Congressional District by political party.
- E. Direct that the State of Georgia devise a method to ensure that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District.
- F. Direct that the State of Georgia, Ms. Cox, Ms. Latimore, and Ms. Ledford immediately conduct a special Democratic primary that ensures that only members of the Democratic Party in the Fourth Congressional District are permitted to vote in the Democratic Party primary in the Fourth District and direct that the State of Georgia conduct thereafter a special general election for Fourth Congressional District.
- G. An award of attorneys fees and costs, including expert witness expenses.

  
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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of this Amended Complaint upon the following.  
by mail, this the 8 day of January, 2003.

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